

LANDMAN CORSI BALLAINE & FORD
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Attorneys for Defendant National
Railroad Passenger Corporation

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**Pascale Andre and Phillipe Andre w/h
1138 Lilly Pond Lane
Yardley, PA 19067**

Plaintiffs,

VS.

**NATIONAL RAILROAD PASSENGER
CORPORATION,
30th and Market Streets
Philadelphia, PA 19104**

Defendant.

No.: 02-CV-3516

Jury Trial Demanded

**DEFENDANT, AMTRAK'S ANSWER AND AFFIRMATIVE DEFENSES TO
PLAINTIFF'S COMPLAINT**

Defendant National Railroad Passenger Corporation (“Amtrak”), by way of answer to plaintiffs’ complaint, says:

1. After reasonable investigation, answering defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.
2. Admitted.
3. After reasonable investigation, answering defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph. Also, because Plaintiff fails to identify agents, servants, workmen and/or employees, answering

defendant is unable to properly respond to the allegations in this paragraph.

4. The allegations set forth in this paragraph are denied.

COUNT I

Pascale Andre v. National Railroad Passenger Corporation d/b/a Amtrak

5. Answering defendant incorporates by reference paragraphs 1-4 of this Answer as though more fully set forth herein.

- 6(a)-(x). The allegations set forth in this paragraph are denied.

7. The allegations set forth in this paragraph are denied.

8. The allegations set forth in this paragraph are denied.

9. The allegations set forth in this paragraph are denied.

10. The allegations set forth in this paragraph are denied.

11. The allegations set forth in this paragraph are denied.

12. The allegations set forth in this paragraph are denied.

WHEREFORE, defendant Amtrak demands judgment against plaintiffs, dismissing the complaint and awarding it costs of suit, attorney's fees and such other relief as the Court deems just and proper.

COUNT II

Phillipe Andre v. National Railroad Passenger Corporation d/b/a Amtrak
Loss of Consortium

13. Answering defendant incorporates by reference the answers set forth in paragraphs 1-12 as if more fully set forth herein.

14. The allegations set forth in this paragraph are denied.

WHEREFORE, defendant Amtrak demands judgment against plaintiffs, dismissing the complaint and awarding it costs of suit, attorney's fees and such other relief as the Court deems just and proper.

AFFIRMATIVE DEFENSES

By way of further response to the entirety of plaintiffs' Complaint, Amtrak sets forth the following Affirmative Defenses:

FIRST AFFIRMATIVE DEFENSE

Plaintiffs' complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Any damages, losses, or injuries sustained by the plaintiffs were caused by the acts and/or omissions of persons or entities other than this defendant and over whom this defendant exercised no control.

THIRD AFFIRMATIVE DEFENSE

Any claims which plaintiffs may have against the answering defendant are barred, or alternatively, must be reduced by virtue of the doctrine of comparative negligence and/or contributory negligence.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs have failed to mitigate their damages.

FIFTH AFFIRMATIVE DEFENSE

Any injuries suffered by plaintiffs were caused solely by their own negligence and not by any negligence of the defendant.

WHEREFORE, defendant Amtrak demands judgment against plaintiffs, dismissing the complaint and awarding it costs of suit, attorney's fees and such other relief as the Court deems just and proper.

LANDMAN CORSI BALLAINE & FORD

Dated: January 9, 2003

By: _____

John A. Bonventre
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CERTIFICATION

I hereby certify that the matter in controversy in this action is not now known to me to be the subject of any other action pending in any court or of any pending arbitration or administrative proceeding.

John A. Bonventre
I.D. No. 77367

Dated: